

Message Text

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ACTION NEA-10

INFO OCT-01 ISO-00 PM-04 NSC-05 SP-02 SS-15 CIAE-00

DODE-00 INR-07 NSAE-00 PA-01 USIA-06 PRS-01 L-03

/055 W

-----171439Z 115819 /47

R 170915Z APR 77

FM AMEMBASSY KABUL

TO SECSTATE WASHDC 2254

LIMITED OFFICIAL USE KABUL 2606

E.O. 11652: N/A

TAGS: PGOVE, AF

SUBJ: IMPLEMENTATION OF THE CONSTITUTION - THE JUDICIARY

REF: KABUL 1982

1. KABUL MEDIA ON APRIL 11 REPORTED THE APPOINTMENT OF FIVE MEMBERS OF THE HIGH JUDICIARY COUNCIL "IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 126 OF THE CONSTITUTION". THE MEMBERS ARE: MAULAWI ABDUL BASIR (FORMER PRESIDENT OF THE COURT OF CASSATION); ENAYATULLAH EBLAGHI (MEMBER OF FORMER HIGH JUDICIARY COUNCIL); MOHAMMAD ANWAR WAHEDI (PRESIDENT OF THE CENTRAL COURT OF APPEALS UNTIL MID-1973, AND A 1958 GRADUATE OF GEORGE WASHINGTON UNIVERSITY); MOHAMMAD ISMAEL QASEMYAR (A MINISTRY OF JUSTICE DEPARTMENT HEAD AND PROMINENT MEMBER OF THE CONSTITUTIONAL REVIEW COUNCIL); AND MOHAMMAD MOUSSA ASHARY (JSUTICE OF THE SUPREME COURT UNTIL 1973).

2. COMMENT: ARTICLE 126 OF THE CONSTITUTION PROVIDES FOR THE APPOINTMENT OF A SUPREME COURT ON JUNE 22, 1978, AND, UNTIL THEN, FOR THE ADOPTION OF THE "NECESSARY INTERIM MEASURES" TO INSURE PERFORMANCE

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OF THE FUNCTIONS OF A SUPREME COURT. WE HAVE BEEN TOLD BY VARIOUS PEOPLE IN THE MINISTRY OF JUSTICE THAT THESE APPOINTMENTS TO THE HIGH JUDICIARY COUNCIL CONSTITUTE THE "INTERIM MEASURES" CALLED FOR BY ARTICLE 126, AND REPRESENT ANOTHER STEP IN THE REGIME'S (SOMETIMES HALTING - SEE KABUL 2555) IMPLEMENTATION OF THE CONSTITUTION.

AS FOR THE NEW JUDGES THEMSELVES, WE FIND TI
INTERESTING THAT TWO MEN WHO HELD HIGH JUDICIAL
POSITIONS JUST PRIOR TO THE 1973 COUP WERE BROUGHT
BACK INTO PUBLIC LIFE. ON THE OTHER HAND, TWO
MEMBERS OF
THE PRE-CONSTITUTION HIGH JUDICIAL
COUNCIL, SAMI UDDIN ZHOU AND GHULAM ALI KARIMI,
WHO WERE CONSIDERED BY US TO BE HIGHLY QUALIFIED
AS WELL AS GOOD FRIENDS OF THIS EMBASSY, WERE NOT
REAPPOINTED. IN THIS REGARD, KARIMI RECENTLY TOLD
EMBOFF THAT HE WAS LOOKING FORWARD TO A POSSIBLE
RETURN TO THE FIELD OF EDUCATION, BUT HE ADDED
THAT HE MIGHT HAVE A ROLE TO PLAY IN THE FUTURE
SUPREME COURT.

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
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Current Classification: UNCLASSIFIED
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Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977KABUL02606
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770133-0637
Format: TEL
From: KABUL
Handling Restrictions: n/a
Image Path:
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Legacy Key: link1977/newtext/t19770449/aaaabqhq.tel
Line Count: 77
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Litigation History:
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Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 77 KABUL 1982
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 19-Nov-2004 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2781718
Secure: OPEN
Status: NATIVE
Subject: IMPLEMENTATION OF THE CONSTITUTION - THE JUDICIARY
TAGS: PGOV, AF
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/08d1cba3-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009